

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2012-273-S - ORDER NO. 2012-960
DECEMBER 21, 2012

IN RE:	Application of Palmetto of Richland County, LLC for a Certificate That the Acquisition of the City of Columbia Sewer Collection System Serving Portions of Unincorporated Richland County is in the Public Interest and for Establishment of a Service Area and Rates and Charges)	ORDER APPROVING ESTABLISHMENT OF RATES, CHARGES AND SERVICE TERRITORY
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This matter comes before the Public Service Commission of South Carolina (“Commission”) on an Application by Palmetto of Richland County, LLC (“PRC” or “Applicant”) for a certificate that its proposed acquisition of a sewer collection system, owned and operated by the City of Columbia (“City”) and serving an unincorporated area of Richland County, is in the public interest, and for the establishment of a service area and rates and charges for service by PRC to customers now served by the City. The Applicant seeks the issuance of the requested certificate pursuant to 26 S.C. Code Ann. Regs. 103-504 (Supp. 2011) and the establishment of the proposed rates and charges and service territory pursuant to 26 S.C. Code Ann. Regs. 103-512.4.B (Supp. 2011). In addition, PRC requests pursuant to 26 S.C. Code Ann. Regs. 103-803 (Supp. 2011), that compliance with 26 S.C. Code Ann. Regs. 103-512.4.B, subsections 3-5, 7-9 and 11-12 be waived in whole or part and that any requirement for a hearing be waived in view of the fact that the Office of Regulatory Staff does not oppose the Application and no intervention exists.

Written notice of the Application was given by the Applicant to the South Carolina Department of Health and Environmental Control, East Richland County Public Service District, and Richland County, by mail on July 6, 2012, in accordance with 26 S.C. Code Ann. Regs. 103-504. The Notice of this matter issued by the Commission was duly published in *The State* newspaper on July 28, 2012, and copies thereof were mailed by the Applicant to Interim County Administrator for Richland County on July 25, 2012, and to the City's affected customers on July 27, 2012, in accordance with the Commission's regulations and instructions. The Office of Regulatory Staff ("ORS") was automatically made a party of record by virtue of S.C. Code Ann. § 58-4-10(B) (Supp. 2011). A single petition to intervene was filed by Mr. James E. Lawrence on August 20, 2012. No letters of protest in this docket were received by the Commission.

On August 29, 2012, PRC filed and served an Objection to Mr. Lawrence's Petition to Intervene and a Motion for Appointment of a Hearing Officer and a Prehearing Conference. Therein, PRC requested that the Commission hold in abeyance action on PRC's Objection until such time as a prehearing conference had been conducted. On September 26, 2012, the Commission issued Order No. 2012-731 in this docket, appointing B. Randall Dong, Esquire, as the Hearing Officer and directing that he conduct a prehearing conference with respect to Mr. Lawrence's petition to intervene in this matter. On September 27, 2012, Hearing Officer Dong conducted the prehearing conference ordered by the Commission, which was attended by counsel for the Applicant, counsel for ORS, and Mr. Lawrence. On October 13, 2012, Mr. Lawrence filed with the Commission a notice stating that he withdrew his intervention. On October 17, 2012,

ORS notified the Commission by letter from its counsel in the matter that ORS supported the grant of relief sought by PRC in the Application.

The Application states that the City's sewer collection system sought to be acquired provides service to 11,370 customers and that the service area sought to be established by PRC is situated in an unincorporated area of Richland County located generally east of Highway 555, south of Rimers Pond Road, west of Hardscrabble Road, and north of Two Notch Road and Brickyard Road. The Application further states that the proposed service area is not served by any other public utility providing sewer service or any other governmental utility, although portions of the proposed service area are within the current service area of another jurisdictional utility, Palmetto Utilities, Inc. ("PUI"). Attached to the Application is a written consent of PUI to the assignment to Applicant of the affected portions of PUI's current service area, which is depicted on the service area map attached to the Application. A letter of credit in the amount of \$350,000 was posted by Applicant with ORS to satisfy the performance bond requirements of S.C. Code Ann. § 58-5-720 (Supp. 2011) and 26 S.C. Code Ann. Regs. 103-512.4.B(10). The Applicant seeks approval of a rate schedule which, consistent with the terms and conditions of a June 6, 2012, Asset Purchase Agreement between PRC and the City also submitted as an exhibit to the Application, provides for customers to continue being charged the same rates as are presently charged by the City, including the rates and charges for monthly sewer service and sewer service connections (i.e., taps). Additional charges which are consistent with the rules and regulations of the Commission or charges

approved by the Commission for PUI, are also included in the proposed PRC rate schedule attached as an exhibit to the Application.

PRC is a limited liability company, duly organized and existing under the laws of the State of Delaware, and is authorized to do business in the State of South Carolina. According to the Application, NiAmerica Capital Management, LLC (“Ni America”), a Delaware limited liability company, indirectly owns 100% of PRC. Thus, PRC is under common ownership and control with two other jurisdictional sewer utilities, namely PUI and Palmetto Wastewater Reclamation, LLC d/b/a Alpine Utilities and Woodland Utilities (“PWR”). The Commission takes notice of the fact that PUI serves approximately 15,800 customer connections and that PWR serves approximately 9,331 customer connections in the Midlands region of South Carolina.

In support of the Application, PRC states that the acquisition of the City’s collection system is in the public interest as the wastewater flow from the customers currently served by the City that is transported to the City’s Metro Wastewater Treatment Plant (“WWTP”) located on the Congaree River will eventually be transported to the Spears Creek Regional WWTP which is situated in the Wateree River drainage basin.¹ Thus, the Applicant asserts, wastewater generated by the customers in the proposed service area will be treated and disposed of in the same drainage basin, which is consistent with watershed based approach to water quality management planning established by the Central Midlands Council of Governments under provisions of the

¹ PRC’s Application states that the Asset Purchase Agreement provides for the City to continue accepting wastewater flow from the proposed service area for treatment at the Metro WWTP until such time as a forcemain interconnecting the collection system in the proposed service area with the Spears Creek WWTP can be constructed. Prior to any such interconnection, PUI will seek establishment of a bulk rate to charge PRC in accordance with 26 S.C. Code Ann. Regs. 103-541 (Supp. 2011).

Federal Clean Water Act. PRC further asserts that the public interest is served because the City's customers, all of whom are situated outside the City's corporate limits, only have the right to purchase wastewater service as a matter of contract and have no recourse with respect to the rates or service they are currently provided. *See Sloan v. Conway*, 347 S.C. 324, 555 S.E.2d 684 (2001). By contrast, PRC asserts, these customers will benefit from the rights accorded customers of public utilities, recourse to this Commission to enforce such rights, and the representation of their interests as part of the ORS's representation of the public interest under S.C. Code Ann. § 58-4-10(B) (1-3) (Supp. 2011). Finally, PRC asserts that the fact that these customers will continue to be charged for monthly service at the City's present rates is consistent with the public interest.

As noted above, the ORS Staff has reviewed the above-docketed matter and has indicated its support of the Application.

FINDINGS AND CONCLUSIONS:

The Commission finds and concludes that:

1. The City operates a wastewater collection system in an unincorporated area of Richland County which serves the aforementioned 11,370 customers.
2. PRC will acquire the City's wastewater collection system pursuant to the terms and conditions of the Asset Purchase Agreement between them that has been submitted with PRC's Application in this matter.
3. PRC will begin operating the City's wastewater collection system after the closing of the acquisition and, initially, continue to transport flow from the customers

situated in the proposed service area to the City's Metro WWTP. It is anticipated that such flow will eventually be transported by PRC to the Spears Creek Regional WWTP for treatment pursuant to the terms of a bulk treatment agreement between PRC and PUI, same to be submitted to the Commission for approval.

4. PRC will continue to charge the affected customers the same monthly service rates and connection charges now imposed by the City unless and until such time as PRC receives approval from the Commission for an adjustment of such charges in a proceeding brought under S.C. Code Ann. § 58-5-240 (Supp. 2011).

5. The acquisition proposed in this Docket meets the requirements of 26 S.C. Code Ann. Regs. 103-504 (Supp. 2011) as it is in the public interest.

6. Compliance with the requirements of 26 S.C. Code Ann. Regs. 103-512.B, subsections 3-5, 7-9 and 11-12 by PRC is unnecessary since the City's wastewater collection system proposed to be acquired by PRC already exists and is in operation and the rates for monthly service and charges for connection to be imposed by PRC are, as a matter of contract between PRC and the City, the same as those currently charged by the City. Accordingly, a waiver of these requirements of Commission rules and regulations is appropriate and not contrary to the public interest. See 26 S.C. Code Ann. Regs. 103-501 (Supp. 2011).

7. Based on the information provided by PRC and given that there is no opposition to the Application, we find that a waiver of any hearing on the public interest component of the proposed acquisition of the wastewater collection system in this matter is appropriate.

IT IS THEREFORE ORDERED THAT:

1. The waivers from compliance with Commission Rules and Regulations set forth in the Application of Palmetto of Richland County, LLC herein are granted.
2. The Application of Palmetto of Richland County, LLC for a certificate that its acquisition of the City's wastewater collection system in the proposed service area is in the public interest and is therefore granted.
3. Palmetto of Richland County, LLC is authorized (a) to provide wastewater service as a public utility in the area described in the Application, and as set forth in map of the proposed service area submitted in this docket and filed with the Office of Regulatory Staff, and (b) to impose the rates and charges set forth in the Rate Schedule attached to this Order as Appendix A, from and as of the date upon which the transaction contemplated by its Asset Purchase Agreement with the City is closed.
4. Palmetto of Richland County, LLC shall inform the Commission and ORS in writing when the transaction with the City of Columbia approved herein has closed and, by way of separate letter, notify customers located in the approved service area of the date upon which their wastewater service shall commence to be provided by Palmetto of Richland County, LLC. Proof of mailing of such notice to customers shall be provided to the Commission and the Office of Regulatory Staff by Palmetto of Richland County, LLC.
5. Upon compliance with the requirements of paragraph 4 hereinabove, the portion of the service area approved for Palmetto of Richland County, LLC hereby shall no longer constitute a portion of the service area approved for Palmetto Utilities, Inc.

The service area maps for Palmetto Utilities, Inc. on file with the Commission and the Office of Regulatory Staff shall be deemed modified accordingly.

6. The hearing in this matter previously set for December 13, 2012, is cancelled.

7. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:



David A. Wright, Chairman

ATTEST:



Randy Mitchell, Vice Chairman
(SEAL)

PALMETTO OF RICHLAND COUNTY LLC
ONE SMALLWOOD CIRCLE
COLUMBIA, SC 29223
(803) 699-2422

SEWER RATE SCHEDULE

I. MONTHLY CHARGES

- a. Base Fee
 - i. For 5/8", 1.0" and 1.5" water meters \$10.20
 - ii. For 2" water meter \$16.32
 - iii. For 3" water meter \$32.64
 - iv. For 4" water meter \$51.00
 - v. For 6" water meter \$102.00
 - vi. For 8" water meter \$163.20
 - vii. For 10" water meter \$255.00
- b. Usage Fee \$4.93
per 100 cubic
feet of water
used as
measured by
the City of
Columbia

The Utility may, for the convenience of the owner, bill a tenant in a multi-unit building, consisting of four or more residential units which is served by a master sewer meter or a single sewer connection. However, in such cases all arrearages must be satisfied before service will be provided to a new tenant or before interrupted service will be restored. Failure of an owner to pay for services rendered to a tenant in these circumstances may result in service interruptions.

- c. In addition to the monthly sewer service charge, a surcharge of \$8.00 per month applies to customer with residences served by small sewage pump stations. A small sewage pump station is defined as one which serves 50 or fewer residences. When the number of residences actually served by a pump station exceeds 50, the surcharge shall be removed from the billings for residences served by that

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particular pump station. The surcharge shall apply only to sewage pump stations accepted for operation and maintenance on or after March 1, 1992.

2. **NONRECURRING CHARGES**

a. Sewer service connection charge

- i. Installed by customer \$300.00 per tap
- ii. Installed by Utility \$1,300.00 per tap
- iii. Taps Required:

- (1) Single-family residence: One tap.
- (2) Single-family mobile home: One tap.
- (3) Multifamily unit: One tap per dwelling unit.
- (4) Separate laundry facilities on the same premises restricted to use by residents of the multifamily units only: One tap for every two washing machines using not more than 40 gallons per wash cycle. Larger machines shall require one tap each.
- (5) Hotels and motels: One tap plus one-half tap per room.
- (6) Day school: One tap for each 20 students and staff (average daily attendance).
- (7) Institutions (except nursing homes and hospitals) having sleeping facilities (i.e., penitentiary, reformatory, boarding school, full-time care facility): One tap for each four beds.
- (8) Contaminated groundwater: One tap for each 400 gallons, or portion thereof, or estimated average input per day into the sewer system.
- (9) All others: The number of taps shall be computed by the Utility in accordance with either the equivalencies to a single family residence (400 gallons per day) established by South Carolina Department of Health and Environmental Control (DHEC) regulation 61-67, Appendix A (as amended from time to time), or in accordance with the following alternative equivalencies, whichever is applicable:

Amusement Centers	per person (without food service)	5 GPD
	per seat (w/food service or restaurant)	40 GPD
Auditorium	per seat	5 GPD
Auto Dealerships, Sales Office	per employee	25 GPD
	Service Area per 1000 Sq. Ft.	200 GPD
	Car Wash Cars/Day	75 GPD
Auto Repair	per 1000 Sq. Ft.	200 GPD
	Add if Floor Drain Connects	1 Tap
Barber Shop	per chair	100 GPD
Beauty Shop	per chair	125 GPD
Car Wash (self service)	cars/day est. by supplier)	75 GPD
Church	Kitchen Addition	1 Tap

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Deli - no cooking	70 GPD
Dentist – staff	15 GPD
-patients	5 GPD
Dog Run (home type)	1 Tap
Pad must be covered and above flood plain)	
Fitness Center (per member)	50 GPD

To the extent there is a conflict between these alternative tap fee equivalencies and the equivalencies established in DHEC regulation 61-67, Appendix A, these equivalencies shall apply.

b. Plant Expansion Fee

In addition to the sewer service connection charge, a plant expansion fee must be paid at the time application for service is made, or an extended payment plan agreement must be executed.

- i. *Amount.* A sewer plant expansion fee shall be required to be paid prior to each sewer service connection to offset the cost of constructing increased capacity or capital expenditures to retain current system capacity in accordance with the capital improvements plan of the Utility. The costs of construction or expenditures to retain current system capacity shall include design and engineering costs, materials and labor to provide the intended plant capacity increase. The amount of the expansion fee for each connection shall be computed by multiplying the number of taps required for each application in accordance with section 2(a) times \$2,640.00.
- ii. *Extended payment.* At the time of application for the sewer service connection, an applicant may elect to pay the entire fee in full or pay the fee, or any portion thereof, in forty-eight (48) equal monthly installments with interest thereon at the rate of seven and one-half (7.5%) percent per annum. The monthly payments for the plant expansion fee shall be added to and collected with the monthly sewer bill for the property to be served commencing with the first sewer bill, and shall be collectible in the same manner as any other sewer charges by the Utility. In the event of the sale of the property being served or to be served by the sewer connection, the unpaid portion of the fee subject to extended payment in accordance with this section shall be immediately due and payable unless Applicant's purchaser assumes the extended payment obligation at closing. Until purchaser(s) apply for transfer of sewer service and or assume or pay in full the unpaid extended payment, no further sewer service shall be provided to such property.

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3. **NOTIFICATION, ACCOUNT SET-UP AND RECONNECTION CHARGES**

- a. Notification Fee: A fee of \$25.00 shall be charged each customer to whom the Utility mails the notice as required by Commission Rule R.103-535.1 prior to service being discontinued. This fee assesses a portion of the clerical and mailing costs of such notices to the customers creating that cost.
- b. Customer Account Charge: A fee of \$30.00 shall be charged as a one-time fee to defray the costs of initiating service.
- c. Reconnection charges: In addition to any other charges that may be due, a reconnection fee of \$250.00 shall be due prior to the Utility reconnecting service which has been disconnected for any reason set forth in Commission Rule R.103-532.4. Where an elder valve has been previously installed, a reconnection charge of thirty-five dollars (\$35.00) shall be due. The amount of the reconnection fee shall be in accordance with R.103-532.4 and shall be changed to conform with said rule as the rule is amended from time to time.

4. **BILLING CYCLE**

Recurring charges will be billed monthly in arrears. Nonrecurring charges will be billed and collected in advance of service being provided.

5. **LATE PAYMENT CHARGES**

Any balance unpaid within twenty-five (25) days of the billing date shall be assessed a late payment charge of one and one-half (1½%) percent.

6. **TOXIC AND PRETREATMENT EFFLUENT GUIDELINES**

The Utility will not accept or treat any substance or material that has been defined by the United States Environmental Protection Agency ("EPA") or the South Carolina Department of Health and Environmental Control ("DHEC") as a toxic pollutant, hazardous waste, or hazardous substance, including pollutants falling within the provisions of 40 CFR §§ 129.4 and 401.15. Additionally, pollutants or pollutant properties subject to 40 CFR §§ 403.5 and 403.6 are to be processed according to the pretreatment standards applicable to such pollutants or pollutant properties, and such standards constitute the Utility's minimum pretreatment standards. Any person or entity introducing any such prohibited or untreated materials into the Company's sewer system may have service interrupted without notice until such discharges cease, and shall be liable to the Utility for all damages and costs, including reasonable attorney's fees, incurred by the Utility as a result thereof.

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7. **REQUIREMENTS AND CHARGES PERTAINING TO SATELLITE SYSTEMS**

- a. Where there is connected to the Utility's system a satellite system, as defined in DHEC Regulation 61-9.505.8 or other pertinent law, rule or regulation, the owner or operator of such satellite system shall operate and maintain same in accordance with all applicable laws, rules or regulations.
- b. The owner or operator of a satellite system shall construct, maintain, and operate such satellite system in a manner that the prohibited or untreated materials referred to in Section 6 of this rate schedule (including but not limited to Fats, Oils, Sand or Grease), stormwater, and groundwater are not introduced into the Utility's system.
- c. The owner or operator of a satellite system shall provide Utility with access to such satellite system and the property upon which it is situated in accordance with the requirements of Commission Regulation 103-537.
- d. The owner or operator of a satellite system shall not less than annually inspect such satellite system and make such repairs, replacements, modifications, cleanings, or other undertakings necessary to meet the requirements of this Section 7 of the rate schedule. Such inspection shall be documented by written reports and video recordings of television inspections of lines and a copy of the inspection report received by the owner or operator of a satellite system, including video of the inspection, shall be provided to Utility. Should the owner or operator fail to undertake such inspection, Utility shall have the right to arrange for such inspection and to recover the cost of same, without mark-up, from the owner or operator of the satellite system.
- e. Should Utility determine that the owner or operator of a satellite system has failed to comply with the requirements of this Section 7 of the rate schedule, with the exception of the requirement that a satellite system be cleaned, the Utility may initiate disconnection of the satellite system in accordance with the Commission's regulations, said disconnection to endure until such time as said requirements are met and all charges, costs and expenses to which Utility is entitled are paid. With respect to the cleaning of a satellite system, the owner or operator of a satellite system shall have the option of cleaning same within five (5) business days after receiving written notice from Utility that an inspection reveals that a cleaning is required. Should the owner or operator of such a satellite system fail to have the necessary cleaning performed within that time frame, Utility may arrange for cleaning by a qualified contractor and the cost of same, without mark-up, may be billed to the owner or operator of said system.

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8. **CONSTRUCTION STANDARDS**

The Utility requires all construction to be performed in accordance with generally accepted engineering standards, at a minimum. The Utility from time to time may require that more stringent construction standards be followed in constructing parts of the system.

9. **EXTENSION OF UTILITY SERVICE LINES AND MAINS**

The Utility shall have no obligation at its expense to extend its utility service lines or mains in order to permit any customer to discharge acceptable wastewater into its sewer system. However, anyone or any entity which is willing to pay all costs associated with extending an appropriately sized and constructed main or utility service line from his/her/its premises to an appropriate connection point on the Utility's sewer system may receive service, subject to paying the appropriate fees and charges set forth in this rate schedule, complying with the guidelines and standards hereof, and, where appropriate, agreeing to pay an acceptable amount for multi-tap capacity.

10. **CONTRACTS FOR MULTI-TAP CAPACITY**

The Utility shall have no obligation to modify or expand its plant, other facilities or mains to treat the sewerage of any person or entity requesting multi-taps (a commitment for five or more taps) unless such person or entity first agrees to pay an acceptable amount to the Utility to defray all or a portion of the Utility's costs to make modifications or expansions thereto.

11. **CONTRACTS FOR SERVICE OUTSIDE AUTHORIZED UTILITY TERRITORY**

Certain customers served by the City of Columbia as of June 6, 2012, who are located outside the territory authorized to Utility by the Public Service Commission, may be served by Utility under a contract which incorporates all terms and conditions of the within rate schedule. Such customers shall be deemed customers of Utility for all regulatory purposes, including the determination of just and reasonable rates and charges. Utility is not required to file any such contracts with the Commission.